

J. V. Lefevre
1794

A
D E F E N C E
OF
THE RIGHT TO TITHES.



A
D E F E N C E *K*
OF
THE RIGHT TO TITHES
ON
PRINCIPLES OF EQUITY,
WITH
OBSERVATIONS ON A COMMUTATION.

Luke vi. 31. As ye would that men should do to you, do you also unto them likewise.

L O N D O N :
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The Authour hopes that his residing at a considerable distance from the Press, will be admitted by the Reader as an apology for so many typographical errors.

Page 3. Note, line 14, For *habeti* read *habet*

12. line 2. The second *is* should be in Italicks, and not the first

16. line 22. For *estates* read *estate*

22. line 18. Put in *a* before *certain*

25. line 15. For *consequenecs* read *consequences*

26. line 9. Leave out the second *can*

27. line 15. For the second *this* read *thus*

line 20. Full stop after *objections*

28. line 6. For *disfnition* read *definition*

line 9. For *them* read *him*

29. line 10. For *thec omplaint* read *the complaint*

31. line 9. Put a comma after *agreement*

33. line 13. Put in *a* before *right*

38. line 1. Put a comma after *law*

line 2. Ditto after *produce*

line 5. Ditto after *rapacious*

43. line 17. For *officer* read *office*

53. line 22. For *these* read *those*.



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INTRODUCTION.

THE question respecting tithes deserves a fuller and more serious examination than it generally meets with. For it involves the rights of a large and respectable body of men, and relates to the provision made for their constant maintenance. Consequently it ought not to be past over as superficially as if it were confined to one or two obscure individuals; or respected an event, which seldom has happened and will probably seldom happen again.

Besides, it is a question in which the conduct of a great part of the community is concerned: as so many people either pay or receive tithes. Now, it is the duty of every man to acquaint himself with whatever relates to his conduct, that he may know how to act on every occasion with justice and propriety. And neither the laws of morality, nor the laws of the land, will allow him to plead ignorance in excuse for his ill conduct,

conduct, unless that ignorance be unavoidable. But this it cannot be, if it be the consequence of his neglecting to examine whatever relates to his conduct.

Hence, it is the duty of a clergyman to enquire what right he has to receive tithes: that, if it should appear that his predecessors have been receiving, what was not their due; he may not, by imitating their example, become a partaker of their guilt. On the other hand, it is the duty of the laity also to enquire how far they are bound to pay tithes: that they may not be guilty of injustice by withholding them, if they should be due.

A third reason why this question ought to be carefully examined by individuals is because it comes properly before them as the judges by whom it is to be determined. The law, indeed, has already determined it: but individuals refuse to abide by its decisions. They take upon themselves to act the part of judges; and to reverse the sentence of the law. They are therefore bound to examine thoroughly the question, upon which they have undertaken to decide, and to see that their decision be just.

The question then, appears to be important, and to merit an attentive examination.

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CHAP.

A
D E F E N C E,

Et. Et. Et.

C H A P. I.

ON THE LAW OF TITHES.

WE will begin with enquiring into the Law of Tithes. And here it will not be necessary to enter minutely into the subject, but only to take a general view of it.

Tithes are of three kinds*. The first are called prædial, as of corn, grafs, hops, and wood : The second mixed, as of natural products, but nurtured and preserved in part by the care of man : The third personal, as of manual occupations, trades, fisheries, and the like. Of the first and second kinds the tenth part is to be paid in gross ; but of the third

* Blackstone's Com. vol. ii. p. 24.

kind only the tenth part of the clear gains and profits is due.

The purposes of this tract will be answered by speaking of the first kind only. Of these the tenth part of the produce is *legally* the property of the parson ; which, if the tithes be taken in kind, he must be allowed to take away.

But tithes are, comparatively speaking, seldom taken in kind: instead of this, a composition is generally made for them. These compositions are advantageous to both tenants and landlords ; because, in consequence of them, the tithe straw is returned to the ground in form of manure, by which the farms are improved ; and if they were made on equitable principles, they would not be disadvantageous to the incumbents. What those principles are, we shall enquire in a future chapter ; but we must first shew that the clergy have a right to the tithes.

CHAP. II.

ON THE RIGHT TO TITHES.

TO establish this right it is not necessary to urge the *jus divinum* ; or, in other words, to contend that, because under the Mosaical dispensation, ministers of religion had a right to tithes ; therefore, under the Christian dispensation, they have a right to them likewise.

The right of the clergy is grounded upon the laws of the country ; the only foundation * of

* See Paley, vol. i. p. 114, where this point is discussed at length in a chapter, entitled, " In what the right of property is founded." Blackst. vol. i. p. 299, " All property is derived from Society ;" and Blackst. b. ii. chap. i.

It has indeed been denied, that property is the creature of civil society : and asserted, that it is essential to the social state, and has existed, in some degree, in every age and nation of the world. (See *Vindiciæ Gallicæ*). But if these assertions be meant of property in land, they are not true. Of the Suevi, Cæsar says, " Privati & se-
parati agri apud eos nihil est." B. G. lib. iv. i. And in another place, of the Germans in general, he says, " Neque
quisquam agri modum certum aut fines proprios habeti
sed majistratus ac principes in annos singulos gentibus
cogna-

any sort of property in land ; this is therefore a sufficient title to the tithe. But we will shew that the clergy have a claim upon society for a competent maintenance, and that the tithe does not exceed the bounds of that claim. It will then be evident, that the law, upon which their right is founded, is consistent with equity.

Now it is a general rule, that the labourer is worthy of his hire. Upon this principle servants are entitled to their wages ; soldiers, sailors, judges, ministers of state, and every class of public servants to their respective salaries. And upon the same principle, they who serve the public as instructors in religion and morals are entitled to rewards for their services.

This rule of natural justice is confirmed by the Scriptures. 1 Cor. ix. 1-14. 1 Tim. v. 17, 18.

Besides this general claim to a reward for services, there are circumstances peculiar to a clergyman of the church of England, which entitle him to receive from the Public a competent maintenance.

The legislature of this kingdom, fearing that the duties of the ministerial office would be neglected, if it were committed to men engaged in

“ cognationibusque hominum qui unâ coierunt, quantum
 “ eis & quo loco visum est attribuunt agri atque anno
 “ post alio transire cogunt.” Lib. vi, 20.

any

any secular employment, hath thought fit to confine its clergy to the duties of their profession. With this view a solemn renunciation * of all worldly employments is imposed on them at ordination, and a statute † hath been enacted, inflicting severe penalties on every clergyman who shall engage in any secular business. Justice therefore requires that the kingdom should provide for their maintenance. If, for the benefit ‡

* “ Will you be diligently employed in reading of
 “ the Scriptures, and in such studies as help to the know-
 “ ledge of the same, laying aside the study of the world,
 “ and the flesh?” Answer. “ I will endeavour myself
 “ so to do, the Lord being my helper.” Ordin. of Priests.

† By 21 Henry VIII. c. 13. clergymen are not allowed to take any lands or tenements to farm, upon pain of £ 10 a month, and total avoidance of the lease: nor to engage in any manner of trade, or sell any merchandize, under forfeiture of the treble value.

‡ “ An honourable and competent maintenance for the
 “ ministers of the gospel, is, undoubtedly, *jure divino*, what-
 “ ever the particular mode of that maintenance may be.
 “ For, besides the positive precepts of the New Testament,
 “ natural reason will tell us, that an order of men, who are
 “ separated from the world, and excluded from other lu-
 “ crative professions, for the sake of the rest of mankind,
 “ have a right to be furnished with the necessaries, conve-
 “ niences, and moderate enjoyments of life, at their ex-
 “ pence

of the rest of society, they are denied the means of providing for themselves and families, and restrained from all the employments in which other men acquire wealth, they have a *right* to a competent provision at the expence of those for whose welfare these restraints are imposed upon them.

Indeed it is even NECESSARY, that they should either be freed from these restraints, and be permitted to engage in worldly business, or that they should be maintained at the public expence.

The right to a competent provision then being proved, the next point to be examined is the *quantity* of that provision.

To ascertain this, it should be considered, that the competency of a man's income depends on his rank and habits of life: for what would be an ample income in one rank, would be insufficient in another. Thus the pay of an officer in the army or navy must be much greater than that of a common soldier or sailor. Now society has thought fit to place the clergy in the rank of gentlemen (whether rightly, or not, is foreign to the question), and the education requisite for

“ pence for whose benefit they forego the usual means of
 “ providing them. Accordingly, all municipal laws have
 “ provided a liberal and decent maintenance for their na-
 “ tional priests or clergy.”

Blackst. Com, vol. ii. p. 25.

their

their profession induces habits and sensibilities suited to that rank. Of course, their necessary expences must bear a proportion thereto, and it is a fact that they do. Justice therefore requires that their income should be also proportional.

A competent provision is also such an income, as is not only sufficient to furnish a man with the necessaries and moderate enjoyments of life for himself; but such as will enable him to support a family, and to lay by something for their maintenance after his decease. For to prohibit the clergy from marriage would be unreasonable: but to deny them such an income as has just been mentioned, must either prevent their marrying, or oblige them to plunge their widows and orphans into all the miseries and temptations of poverty. Now, if the income allowed them by law be compared with the expences which are unavoidably incurred by their rank in life, it will be found sufficient to enable them to lay by only a very scanty * provision for their families: and consequently the law, which gives it them, cannot be charged with giving them too much.

* If the clear annual value of all the churches and chapels in the kingdom were collected into one sum, and that sum was equally divided amongst them, I think it would not amount to £120 a-year to each. (Appendix to Bishop of Llandaff's Letter to the Archbishop of Canterbury.) There are 5597 livings under £50 a-year.

Besides, their interest in the estates which are assigned to them by law, terminates with their lives; and does not, like many businesses, or a farm, descend to their families. If it be said, that this is the case with all other professions, it should be observed, that several of them are so lucrative as to enable those who engage in them to acquire ample fortunes: and also that its being the case with other professions, as well as the church, proves only that society does not do those professions justice: but that it does not prove that the clergy are not entitled to such a provision as may enable them to discharge the duties of fathers and husbands; nor that the law, in having allotted them such a provision, hath allotted them too much.

The education required for their profession is liberal and expensive: and consequently the advantages should be suitable*.

Added

* “ As for the cheapness (of the priesthood) that appeared lately in one of your parliaments, when the accounts exhibited shewed that 6000 of your clergy, the greater part of your whole number, had, at a middle rate, one with another, not £50 a year: a poor emolument for so long, so laborious, and so expensive an education, as must qualify them for holy orders. While I resided at Oxford, and saw such a conflux of youth

Added to this, the laws of the country have cut off from them all retreat. This circumstance is peculiar

“ youth to their annual admissions, I have often studied
 “ and admired, why their parents would, under such
 “ mean circumstances, design their sons for the church,
 “ and those the most towardly, and capable, and select
 “ geniuses among their children ; who must needs have
 “ emerged in a secular life. I congratulated, indeed,
 “ the felicity of your establishment, which attracted the
 “ choice youth of your nation for so very low pay ; but
 “ my wonder was at the parents, who have generally
 “ interest, maintenance, and wealth the first thing in
 “ view ; till at last one of your state lotteries ceased my
 “ astonishment ; for, as in that, a few glittering prizes of
 “ £1000, £5000, £10,000, among an infinity of
 “ blanks, drew troops of adventurers, who, if the whole
 “ fund had been equally ticketed, would never have come
 “ in ; so a few shining dignities in your church, prebends,
 “ deaneries, bishopricks, are the *pious fraud* that induces
 “ parents to risk their children’s fortune in it. Every
 “ one hopes his own will get some prize in the church,
 “ and never reflects on the thousands of blanks in poor
 “ country livings.”

Phileluetherus Lipsiensis, by Dr. Bentley, a foreigner, in the
 Bishop of Landaff’s Letter to the Archbp. of Canterbury.

The encouragement given to the clergy is even inferior to what is afforded by the lower lines of business, or even to the clerks in commercial houses. Yet these have their prizes, and those more numerous, as well as more easily
 C attained,

peculiar to the church. For if a man engage in any other line of life, and find himself unable to make a suitable provision for himself and family therein; he has the liberty of relinquishing that line, and betaking himself to any other, which may promise him more success. But the character of a priest is indelible: he cannot relinquish his profession. Surely then it is incumbent on those, for whose sakes these restraints are imposed on the clergy, beyond all other classes of men, to make them a compensation, by providing for them liberally under them.

It has been said, that as the apostles, and first preachers of the gospel, were content with only a scanty provision, therefore all their successors ought to be content with the same. We answer, that the church must be reduced to its original constitution before this argument can be properly urged. Take the ministers from the fishermen and mechanics, as the apostles were taken; suffer them still to exercise those employments as the apostles did; and it may then be proper to allow them only a scanty stipend; for their rank in life, and expences, will require no more: besides that,

attained, by men of integrity and ability, than the prizes in the church: for it is no uncommon thing to meet with large fortunes made in business, but very rare indeed to find even a moderate one made in the church.

they

they will then be as able as other persons to acquire a maintenance by their worldly business. But while a liberal and expensive education is required for their office; while they are placed in an expensive situation, and deprived of the means of defraying those expences by being restrained from all worldly business; they have a right to as ample a provision as the law has made for them.

As to the MODE in which that provision is to be raised, the appointment of this must necessarily rest with the legislature. Whether indeed tithes be the best mode which could have been adopted may be doubted *; but this does not affect the

* It was doubtless in imitation of that institution among the Jews, that tithes were adopted as the mode of providing for the ministers of Christianity; and probably it was thought, that a better mode could not be adopted, than that which God himself had pointed out: but then, the example should have been followed exactly; at least, no material circumstance should have been omitted. Now, amongst the Jews, if the occupier did not chuse to pay his tithes in kind, but to redeem them, he was to add to them a fifth part of their value. Levit. xvii. 31. Thus a line was drawn, and could not be departed from but to the loss of the tithe-payer; and thus all those unreasonable customs, and the still more unreasonable expectations, which are the ground of all disputes on this subject, were excluded.

question. To prove that the clergy have a right to the tithes, it is sufficient that it is the mode of provision which the legislature has appointed : for the right does not depend upon the propriety of the appointment, but upon the competency of the legislature to appoint.

Having shewn, then, that the clergy have a claim upon society for a competent maintenance, and that this claim is not exceeded by the provision which the law hath made for them ; it is conceived, that their right to the tithes will be sufficiently proved to all who are acquainted with the nature and foundation of property. But as the greater part of the persons, with a view to whom this tract is written, are not of this description, it will be necessary to proceed much farther with this part of our subject ; and the rather, because their mistakes on this head seem to be the foundation of their objections to the claims of the church. To them a law, though grounded on so reasonable a cause, seems to convey a very slender title ; especially when put in competition with their title to their estates ; and it must be confessed, that this seems to be the case here : for it is by virtue of that law that the incumbent claims a tenth part of their produce. They imagine that their right to their estates is of a higher order, and of a more sacred kind, than the ministers right to the tithe ; and therefore that there can be

be nothing wrong in disputing his claim to them. Nay, they even think it is unjust in a clergyman to avail himself of such a title, to take from them that to which they have so much better a right. On this account it will be proper to consider what sort of title can be produced to property in land, and to compare it with that which has been made out to the tithe. From this comparison it will appear, that the right to tithes is as good as can be urged to landed property.

Superficial observers may imagine, that the purchase of an estate necessarily gives a right to the possession of it: but as no man can sell that to which he has not a right, it becomes necessary to examine into the title of the feller, before that of the purchaser be admitted. For the same reason, the title of the feller's predecessor must be examined, and again that of his predecessor, and so on, to that of the first possessor, from whom the right is ultimately derived; and if it should appear, that the title of any one of them is defective, the claims of all his successors must fall to the ground.

If we admit that occupancy gave this first possessor a just title; nay, if we go further, and grant that he had a right to nominate his successor (which is more* than is true), still this

* Blackstone 2. 12. Paley, B. iii. Ch. 23.

would

would not establish the title of the present possessor, because he could not make out a regular claim under him. For history informs us, that this country has been repeatedly conquered, and that the victors have entered upon the estates of the vanquished upon no other title than the possession of superior force; the most unjust of all claims whatsoever, and the most inconsistent with the very first principles of society. Whatever right, therefore, the first occupier, and all who derived under him, might have, the present owner cannot justify his claim upon this ground; for, by these conquests, the chain of succession has been repeatedly broken; and, though he could make out a clear title as far back as one of these conquerors, still the defective title of that conqueror would invalidate the claims of all his successors.

Indeed, far the greater part of the estates in this kingdom are not held strictly on this title. They are not derived from an ancestor, or former possessor, who entered on the premises sword in hand, and by his own authority drove out its former owner: but from some Norman* to whom William the Conqueror gave the estates which he

* See Hume's History of England, vol. i. p. 252 and 260; and Rapin's History of England, vol. i. p. 170 and 172.

had taken from the English. To say nothing of the violence by which he had acquired the crown, still the only title which he could confer was grounded on his grant as king. In this respect, then, estates resemble tithes; for they were originally conferred on the clergy by the grant of a king. If, therefore, the grant of a king cannot convey a good title, by what right is property in land claimed? But if it can, it ought to be admitted in the case of the clergy as well as in that of the landholder. In this respect they both stand on the same foundation, and the right to tithes is the same as that to estates.

The title to estates, originally thus conferred, has been confirmed by a variety of subsequent laws: but so also has the title to the tithes: consequently the right to tithes still proceeds on the same ground as that to estates.

This right we contend to be sufficient: but to shew that it is the interest of landholders to admit it so to be, we proceed.

Were it necessary to enquire into the reasonableness of the law, before the claims conferred by it were admitted, the clergyman's title would then appear to be even better than the landholder's.

For, to say the least, it was more just that a government should levy such a subsidy as the tithe for the support of public instructors in religion and morals; than that a conqueror should,

to

to secure his conquests, dispossess all whom he apprehended not to be in his interests, and give their estates to his own partizans.

Besides, the clergyman's title, from its nature, admits of fewer flaws than that of any other description of persons. Very few estates are now in the hands of the same family as held them immediately after the conquest: much the greater part have been frequently conveyed from one family to another. And whoever considers the intricacy of the law of conveyances, and the number of law-suits continually arising thereon, will think it probable, that, amidst so many conveyances, some have not proceeded upon legal and equitable principles. Hence a new source of objections to the claims of landholders is opened. For that the present possessor's title should be just, it is necessary that each successive transmission of the estate should have been consistent with justice. But the incumbent claims in right of his office: no conveyances have taken place respecting his estates: and consequently his title is not liable to the flaws incident to these changes.

Some landholders have objected against the clergy's possessing so large a share of the property of the kingdom for the performance, of what appears to them, such trifling services. But it should be shewn, that landholders, as such, perform more useful services for the much larger share
which

which they enjoy. “ Estates were formerly military benefices, and not property ; and were therefore transmitted to such only as could serve in the army, and perform in person the conditions upon which they were originally granted.” (Hume’s History of England, vol. i. p. 349). Their having rendered these military benefices *sinecures*, does not entitle them to object against the claims of those, who are still in the performance of the services, in reward for which their possessions were originally granted : for the clergy are still the public instructors in religion and morality.

The inconveniences which would arise from subjecting to examination all the various transmissions of estates, oblige mankind to have recourse to *prescription* : that is, to agree that an estate, which has been in the possession of a particular family, for a certain number of years, is become their property ; though the title, upon which they originally came into possession, were bad.

But the church too can plead a very ancient prescription * : for the tithes have been long in

* Prescription is not confined to *property in lands*, as a late writer (Mr. Mackintosh) implies in one of his arguments against the rights of the church. It extends to a variety of other subjects, as fairs, markets, tolls, rents,

the possession of the clergy. If, therefore, prescription sanctions the claim of the landholder, it also sanctions that of the clergyman. Here again they both stand upon the same ground.

Upon the whole, then, it appears, that the title to tithes is at least as good as that to estates. And consequently, while estates are admitted to be the property of the landholders, the tithes ought to be admitted to be the property of the clergy.

Were the possessions of the clergy entirely separate from those of other people, their right to them would hardly be disputed. But as they are so connected and intermixed with the property of others, as to be a proportion of the produce of their labour and expence, objections are continually made to the validity of the claim to them. But these objections would probably vanish, were it but duly considered, that every estate, which hath been in any way acquired since the institution

ways, &c. &c. In a moral sense it may be urged (if indeed it can be urged in a moral sense at all) to justify the continuance of an old right or usage of one kind as well as another, and therefore is as applicable to tithes as to property in land.

of

of tithes in this kingdom, was acquired chargeable with tithes: *i. e.* in other words, the exclusive right of cultivating and reaping on any lands, was acquired *subject to the condition of the payment of a tenth part of its produce to the clergy.* Justice therefore requires that the condition should be performed.

And, indeed, no man can reasonably complain of the condition as hard. For when the estate was granted from the crown, the grant was beneficial, though subject to this condition; and as it was beneficial to the first grantee, it must be so to his successors, who are in this respect in the same circumstances with him. Besides, it is evident, that his grant is beneficial, because, though subject to the tithe, it sells for a considerable price.

When the estate was purchased, the smaller sum was paid for it in consideration of its being subject to tithe: and therefore the purchaser can have no right to complain that he is not exempted from this condition. If I purchase an estate, charged with a certain portion of its rent, to be payed to A, or B, this would be a burthen upon the estate; but it would be no hardship upon me, if I knew it when I made the purchase: because I should pay the smaller sum in proportion. If a portion of the produce were charged upon it, it might be necessary for me to make a

larger deduction in my price, than if it were a portion of the rent; because of the greater inconvenience attending it: but still the same principle applies; and when I had made the purchase, I should have no right to complain that I was required to perform the condition. This is exactly the case with respect to the tithes.

It is true, estates are not as beneficial to the possessor, as if there were no tithes: so neither are farms as beneficial to tenants as if there were no rents, and no right to turn them out. But as this is no reason why landlords should be deprived of their rents; so neither is it a reason why the clergy should be deprived of their tithes*.

* Another argument, in favour of the rights of the clergy, may be taken from the right of patronage. Advowsons are admitted on all hands to be property, and as such are sold and inherited. Now an advowson is only a perpetual right of presentation; but the right of presentation involves in it the right of enjoyment in the presentee: for of what use is the presentation, if the presentee be not permitted to enjoy the thing presented? Nay, the value of the advowson rises and falls, *ceteris paribus*, with the income enjoyed by the incumbent.

Were any change to take place, injurious to the rights of the clergy, it would, in many cases, affect the patron more than the incumbent.

C H A P. III.

ON COMPOSITIONS IN LIEU OF TITHES.

A COMPOSITION is a contract*: and ought therefore to be governed by the general laws of contracts. One of these laws is, that every contract should be fair and equitable to both parties. If I wish to possess any part of my neighbour's property, I ought to be willing to pay him a fair price for it: and to desire to possess it on any other terms would be unjust. This principle applies to contracts or compositions in lieu of tithes: for the principles of justice are general.

The thing to be contracted for here is the tenth part of the produce of the land. It is necessary to be attentive to this; because when a composition is about to be made, farmers are frequently desirous of substituting the tenth part of their *profits*, instead of the tenth part of their *produce*. But by what right such a substitution is

* If this be not the just idea of a composition, it will only follow that compositions are themselves unjust; and that there ought to be substituted in their place an equitable contract, by whatever name it may be called.

made, it is hard to discover. That corn, grafs, hops, &c. are a *prædial*, and not a *personal* tithe, is evident from the law books, and from the uniform decisions of the courts: and from the same authorities it is clear, also, that the distinction between these two sorts of tithe consists in this, that of the *personal*, only the tenth of the *profits* is due; whereas of the *prædial* the *tenth part is to be paid in gross* *. Besides, when the tithe is taken in kind, the farmers well know that the portion which is taken is the tenth of the produce: and as they enter into the composition to prevent their being so taken, this is the portion for which they are then contracting.

Let us suppose then a field of wheat consisting of a thousand shocks: of these one hundred are the tithe, and therefore belong to the Rector. They are of certain value as they stand in the field †: for if even in that state they were put up to sale, they would fetch a certain price.

Now

* Imprimis volumus quod decimæ de frugibus, *non deductis expensis*, integre, & sine aliquâ diminutione solvantur, &c. &c. Constit. Abp Winchelsea. 23 Ed. I.

† In this state the 100 shocks of wheat are of more value to the person on whose land they grew, than to any other purchaser; both because they can be brought home by him at a smaller expence, than by any other person; and

Now if a composition is to be made, that price, as near as it could be ascertained, ought to be paid for them. To pay only half, or two thirds of their value, would be unjust. It is a mode of dealing, which is admitted on no other occasion; why then ought it to be on this? Why is a clergyman's property to be undervalued, and he to receive only a part of its worth?

Compositions are generally made for a number of years. Hence as the quantity produced, and the prices of grain, are continually varying, the averages of these should be taken, and should form the foundation of that composition. It seems almost unnecessary to add, that these averages should be fairly made, and not taken from the smallest quantities produced, or the lowest prices of grain known, within a certain number of years.

Without knowing how much corn is usually produced on the land, no composition can be fairly made. But, in general, the only way in which this can be known by the incumbent of a living, is, either by his taking the tithe in kind for a few years, or by a fair account of the crops given him by the farmers. If therefore the farmers

and because his land would suffer more for want of the tithe straw, than any other persons would be benefitted by it. But this can be no reason why he should have them at a smaller price.

desire

desire that their tithe should not be taken in kind, they are bound in equity to give the clergyman such information as may enable him to know their worth. For no man can fairly be required to contract about a thing of which he does not know the value : and it is unjust to take advantage of the ignorance of the person with whom we deal ; especially if, as in the present case, information can be obtained from nobody but ourselves.

Where these principles are adhered to in making a composition, no disputes about tithes can arise between a minister and his parishioners : but the departure from them occasions frequent disputes. And as this departure consists not in the clergy's demanding more than the value of the tithes ; but in the farmer's requiring that much less than their value should be taken for them ; the blame of these disputes should be cast not on the clergy, but on the farmers. For few men can patiently submit to injuries when they have it in their power to obtain justice : and fewer still can suffer a considerable part of their legal maintenance to be withheld, and themselves and families to be distressed thereby, without making some efforts to obtain redress.

C H A P. IV.

ON THE OBJECTIONS TO THE PAYMENT OF
TITHES, OR THEIR VALUE IN MONEY.*Objection, I.*

OF all the objections to the payment of tithes, that which is urged by the Quakers is entitled to the first consideration: because it proceeds on a principle of conscience. They consider it as contrary to the commands of Jesus Christ. Were it so, they would be highly commendable in refusing to pay them: for we are bound to obey God rather than man. But we ought to be sure that God hath given a command to which the human law in question is opposite. It is not sufficient that our sect or party may so interpret the divine precept: we are bound to use every means in our power to attain a right interpretation; for we risk the rectitude of our conduct upon it, and must abide by the consequences.

The passage of scripture cited by them is Mat. x. 8. "freely ye have received, freely give."

It is part of the command given by Jesus Christ to his apostles when he first sent them out to preach. From the whole of this passage it ap-

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pears that the occasion was extraordinary. They were therefore endued with extraordinary powers, and had several extraordinary directions given them, besides that which is now under consideration: such as that they were to carry with them neither money, nor victuals, nor two coats, nor shoes, nor staves. These precepts cannot be considered as binding on ministers on every occasion, nor can any general rule can be deduced from this particular case.

Even on this occasion our Lord evidently intended his disciples should be chargeable to the persons to whom they preached: as appears from his prohibiting their carrying with them money or victuals; and from his directing them to expect their subsistence from those who should receive them. Besides, which is more to our purpose, he lays it down as a general rule that a preacher is entitled to his subsistence from his hearers; "for the workman's faith he is worthy of his meat."

St. Paul also, strongly contends for the right of a preacher to be supported by his congregation; though for particular reasons he himself chose to wave that right.

It seems evident, then, that it is not inconsistent with the divine command that ministers should receive their subsistence from the people: but on the contrary, that it is the duty of the people

ple to maintain them. The objection of the Quakers therefore is without foundation.

Objection, II. Dissenters of all denominations may perhaps contend that they ought not to be required to pay towards the support of preachers, on whose ministry they do not attend. But this is a necessary consequence of a national religious establishment. To enquire into the propriety of such an establishment would be foreign to the subject of this tract; but if the church of England as by law established is to subsist, it is necessary that a legal maintenance should be provided for its ministers. And to allow every man, who might chuse to dissent, to withhold his tithes, would defeat this provision; and by this, making it the interest of every man to dissent, would in the end overthrow the establishment itself.

Objection, III. Members of the church of England, however, cannot urge either of these objections; their refusal to pay tithes, or their value in money must be grounded on reasons very different from these.

Tithes are complained of as a grievous *tax*. This is urged both as a defence of their conduct in resisting demands of the clergyman; and as

the reason why the law which assigns him the tithe should be repealed.

By a tax* I understand, "a part of a man's property taken from him by law for the public service." That what is taken from him should be *his property* is a part of the definition, which is essential to the objection: because, if it be not his property, its being taken from them can be no just ground of complaint. The question, then, is, Is the tithe or

* A certain writer defines a tax to be the property of the state which it appropriates.

But (as hath been observed in answer to him) if this were a just idea of a tax, then the royal domains of our kings were a tax; which seems a very unusual application of the term. However not to dispute about words, let it be observed, that if the tithe be the property of the state, it is property which it hath appropriated; and is therefore exactly in the same predicament with estates. They are the property of the state which it hath appropriated; for they are as much a grant from the state as the tithe. The only difference is, that the tithe is appropriated for the reward of those who do serve the public; but estates are appropriated to those who do not serve it. If the one therefore be a tax, the other is; and the landholders much the larger of the two, besides being levied without any valuable consideration. Complaints therefore against the tithe do not come with any propriety from them.

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any part of it the property of the landholder or occupier?

It has, I conceive, been proved above, that the tithe is the property of the clergy, which they hold by as good a title as that by which estates are holden by the landholders: and it hath been shewn that the payment of tithe is a condition subject to which all estates have been acquired. That the tithe is the property of the landholder, then, is a mistake, and the complaint in question is groundless*.

Nay, so intirely without foundation is this complaint, that were the order of the clergy even abolished, the landholder would have no just claim to the tithe. In such a case the tithe would

* The tithe may be more properly considered as a *rent* than as a *tax*. For, like other rents, it is a consideration paid for the exclusive privilege of cultivating, and reaping on certain lands: being a part of the condition subject to which the lands were originally granted. This consideration is, properly speaking, paid to the public; from whom the grant of the lands was received. The clergy receive it as a salary from the public: by whom it was granted to them as a reward for their services. So under the Mosaical dispensation, the people were considered as paying the tithes to God, and the Levites as receiving them from God. Hence it is said Mal. iii. 8 & 9. Will a man rob God? Yet ye have robbed me—In tithes and offerings. belong

belong to the public; and ought to be disposed of as would be most conducive to the advantage of the community: that is, perhaps, they ought to be sold for the payment of the national debt. If it be said that they should be abolished for the encouragement of agriculture, it should be proved that their abolition would encourage agriculture to such a degree as would be a compensation to the public. To effect this, it would be necessary that the advantages of the abolition should be secured to the occupiers of lands. But it is clear that in a short time these advantages would fall into the hands of the landlords: for they would let their farms at a proportionally advanced rent.

Objection, IV. The land will not bear so large a proportion of its produce to be given to the clergy: for the cultivators will not have enough to defray their expences.

Where rents are not immoderately high, the assertion is not true. For in every part of the kingdom the tithes are in some parishes taken in kind: and yet the farmers are not impoverished.

Where tenants are rack rented they may find it difficult to pay tithes. But whose fault is this? It is the fault of both landlord and tenants who

who have been contracting about the land, just as if the tenth of its produce were not due to the incumbent. But is such a contract to deprive a clergyman of his rights? It is a general rule that a contract between A, and B, cannot deprive C, of his rights. Both landlord and tenant, when they agree upon their rent, know that the tithes are the property of the clergy. It is therefore their duty, so to make their agreement as that the tithe may be paid: and if they do not, it is their own fault. To admit, this as an excuse for not paying tithes, would be allowing them to profit by their own wrong.

Objection, V. On improvements. It is contended, that to tithe improvements is unjust. But it must be admitted that they are *legally** titheable: for the courts of law have constantly so decided the question. And as the law is the foundation of property, it appears that the clergy have a right to the tithe of improvements.

* An agreement for tithes in a case of inclosure was by Lord Chancellor Northington declared unjust, because no consideration was given for the future improvement of the lands by such inclosure; and accordingly set aside.

Burn's Ecc. Law. *Tithes.* § Modus.

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But it may be shewn that the law is in this respect equitable.

If the institution of tithes were not unreasonable when it took place, it cannot have become so in consequence of improvements.

Because, notwithstanding these improvements a much greater proportion of the property of the kingdom was paid to the clergy formerly than at present. For at that time the property of the nation consisted principally in the produce of the land, commerce existing then only in a very small degree. But since the vast extension of commerce, the produce of the land, however encreased by improvements, is become only a very small part of the wealth of the kingdom. If then the nation could afford to give a tenth of its produce, which was then near a tenth of its whole property, to the maintenance of the clergy, can it not now afford to give a tenth of its produce, when it is become not a thousandth part of its property? This argument applies to society at large.

But we may argue with respect to that class of men upon whom the payment of tithes more immediately falls, that if where their land yielded then £ 10 a year they could afford to pay their minister one pound, they may now afford to pay him £ 10 if it yields them £ 100.

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It has been said that improvements ought not to be tithed, because this would be to tithe a man's labour and expence. But tithes are in every case levied on a man's labour and expence. The lands in this kingdom never produced crops spontaneously: nor were they ever cultivated without labour and expence*. If therefore this circumstance did not render the institution of tithes unjust formerly, it cannot now.

Besides, as was argued before, a clergyman's being restrained from the advantages of personal labour, for the benefit of the rest of society, gives him right to be supported by their labour and expence. The tithing of improvements, therefore, proceeds upon the general principle upon which tithes are levied at all.

Added to this, when you made your improvements you knew that they would be titheable. You made them, then, subject to this condition :

* In talking on this subject people seldom make allowance for the superior ease with which every operation on husbandry is performed, in consequence of improvements in the instruments and the methods of using them. Barbarous nations are probably not at less expence and trouble in cultivating their lands than civilized nations, on account of their awkward and tedious methods and want of proper implements in husbandry,

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and therefore can have no right to complain if you be required to fulfil the condition. You will say perhaps, that when you improved your lands the composition was at a very low rate, and you did not think it would be raised. But did you not know that it was *liable* to be raised? You were willing then to run the risk. Of course you can have no right to complain of the consequences: any more than he, who buys a ticket in the lottery, has a right to complain, because it comes up a blank.

It would be extremely hard upon the clergy if improvements were not titheable.

Because otherwise the provision made for them by government would be continually decreasing. For the expences of life encrease, not only as the value of money decreases, but also as improvements are made in arts and sciences. In the earlier periods of society men's wants* are few: their clothing is of the coarsest materials; their provision of the simplest kind: their houses
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* Becket was considered as living in the greatest pomp and luxury of any man of his time: yet we find that it consisted in his having his apartments every day in winter covered with clean straw or hay, and in summer with green boughs or rushes; lest the gentlemen who paid

and furniture proportionally mean. But as improvements are made in arts and sciences their manner of living becomes more and more expensive. This encrease of expence has been very rapid of late years: and the clergy feel its effects as well as others. But as the encrease in the price of grain is not proportional to the encrease of the whole of the expences of life; the same number of bushels of wheat as would have afforded them an ample maintenance formerly, will be insufficient for their support now.

And, because if improvements were not titheable, the rights of the clergy would be rendered uncertain. Where shall we find authentic accounts of the quantities of grain produced in each parish formerly? How then could the tithe be settled? In this case the incumbent would have a right to something, but nobody would know to what: which would be much the same as having no right at all.

paid court to him, and who could not by reason of their number find a place at table, should soil their fine cloaths by sitting on a dirty floor.

John Baldwin held the manor of Oterasfee in Aylesbury of the king in soccage, by the service of finding for the king's bed, litter, viz. in summer, grafs or herbs, and two grey geese; and in winter, straw, and three eels thrice in the year if the king should come thrice in the year to Aylesbury.

Hume's History of Eng. vol. i 384.

To what has been said, it may be added, that if the produce of certain lands should by any circumstances be considerably reduced in value, it is not probable that the cultivators of them would be willing to pay the same price for their tithe as they pay at present. If so, then the clergy should profit by the encrease as they would suffer by the decrease.

However, if a man lay out a considerable sum of money in improvements, a suitable allowance should be made him. If a man hire a farm, and engage to improve it, his rent should not be raised till he has had an opportunity of repaying himself his expences, and acquiring a fair and equitable compensation for his pains, his skill, and the risk which he has run. Some such method should be adopted in making a composition for tithes. But the following consideration ought also to be attended to. If a landlord occupy his own land, he is deriving advantages from his improvements before the encrease of its produce has repaid his expences: because the value of his estate is thereby encreased. The same may be said of a tenant upon lease; for if his lease were put up to sale it would fetch a premium*.

* By 2 and 3 Edward VI. c. 13. Barren and waste lands converted into arable or meadow are exempt from the payment of tithes for the first seven years.

Objection VI. To take the tithe in kind, or to require their value, is *oppressive*. This objection is urged by both tenants and landlords: and the clergy are represented by them as a *rapacious* set of men.

But what is meant by oppression and rapacity? Are these terms applicable to a man who demands no more than his right? If so, when a tradesman brings me in a bill, and demands payment for the goods which I have purchased of him, he is oppressive and rapacious. Or when a man demands of me the payment of any other right, he is oppressive and rapacious. This would be considered as a very unjustifiable, and a very absurd use of the terms. They generally convey the idea of a man's demanding more than his right: or at least they imply that he takes advantage of the letter of the law to claim what he is not entitled to by its spirit and intent. And it is clear that this is the sense in which they are applied to the clergy. To justify their use, then, either in propriety of language, or integrity of speech, when a clergyman claims his tithes, or their value, he must be claiming what he has no right to: or be wresting the letter of the law beside its spirit and intent. That they have a just right to the tithe has, I conceive, been proved above: and that they are not going beyond the spirit and intent of the law, is evident from every decision of the question in the courts, and from the nature of the law

law itself. For to suppose that a law which gives them a tenth of the produce did not intend them to have the tenth, but some other portion, seems absurd.

But the clergy are represented as rapacious not only when they attempt to take the tithes in kind, or to raise the composition to its value, but even when they attempt to raise it at all; and frequently without any rise. The compositions are in general very low. They amount in few places to two-thirds of the value of the tithes: in most perhaps not to half: and in many places to a very small proportion indeed. But if in any place the composition be attempted to be raised, a general clamour is immediately excited, and every mean is used which can be conceived likely to overthrow the attempt. Who then are the oppressors? Who then are rapacious? They, who wish to receive what approximates to the value of their property? Or they, who wish to prevent them?

It is remarkable that no class of men in the kingdom receive so small a part of their just rights, as the clergy: and consequently no class of men in the kingdom less deserve the charge of rapacity. It is even impossible for them to oppress the people. For the law has exactly defined their right: and if more than its value be demanded, the people are at liberty to require that

that the tithes should be taken in kind. Under such circumstances, it is impossible for the clergy to deserve the epithets of oppressive and rapacious.

Objection VII. Custom is pleaded in objection to raising the composition to its value.

Custom is of two kinds; and respects either what has been for a length of time received on the living in question: or what is usually then received in its neighbourhood.

The first is, I believe, called by the lawyers, prescription: but it cannot be pleaded here *consistently with law*: because the law has restrained the cases in which it will allow prescription to be pleaded in respect to tithes to what it calls *modus*. But we are speaking of livings where no *modus* exists.

Neither can custom be pleaded here on *principles of equity*: for it never can be equitably applied except in contracts: “where the contracting parties may be presumed to include in their stipulations all the conditions which custom has annexed to contracts of the same sort. It possesses no proper authority to alter or ascertain the nature of right and wrong.” Paley, vol. i. p. 148.

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It is an equitable rule of our law that an unreasonable custom should be abolished, "*Malus usus abolendus est.*" Now no custom can be more unreasonable than that the same sum should for ever be received for the tithes, when they are continually encreasing in the price for which they would sell; and the value of money is continually decreasing, so as to make the income of the clergy altogether insufficient for their maintenance. To allow such a custom would be a great injustice to the clergy: but to disallow it would be no injustice to the landholder. For if he pays the tithes or their value, he has still all which he either purchased or inherited. His property is not diminished: he is only not permitted to encrease it by transferring to himself the share of the clergy. Even his expectations, if they are reasonably formed, cannot be disappointed. Because it is notorious that the law restrains every incumbent from binding his successor: and that it gives to each successive incumbent the right to continue or to alter the engagements which may have been entered into by his predecessor. That he should exercise this right, especially as the exercise of it is frequently necessary to his subsistence, can be a disappointment to no man.

To require that all the clergy in a certain neighbourhood should receive after the same rate,
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if that rate be less than the real value, must be unreasonable.

Because land varies in its quality : and, of course, the tithe varies in its value.

Because, parishes vary in their size : so that he who has a smaller parish than his neighbours, may be starving, while they, receiving after the same rate, may enjoy comfortable incomes.

Because one clergyman may have a smaller private fortune, or a larger family : or be under the necessity of living at a greater expence than others.

Besides, the composition must necessarily be raised at some time or other : both, because the value of money continually decreases, and the expences of life continually encrease. Somebody also must begin the rise. Why then should he be blamed ?

If the composition be much under the value of the tithes, the custom of the neighbourhood is unjust. No other persons receive only a part of the value of their property : why then should the clergy ? They pay the full value of every article, which they purchase, whether of their parishioners or others. Why then should they receive at the rate of 10 or 15 shillings in the pound, and pay at the rate of 20 ? Surely this must be admitted to be unreasonable : and therefore ought not to be required.

Besides, the custom which is pleaded is not general. Compositions vary ; and in all parts of the kingdom the tithes of some parishes are taken in kind. They are indeed generally taken in kind where they belong to an impropriator. But if an impropriator be allowed to take them in kind, much more ought a clergyman : both, because much less can be said in defence of impropriations, than of giving the tithes to the clergy : and because the impropriator, being usually a man of fortune, stands in less need of them : whereas the clergy have generally scarcely any other subsistence.

C H A P. V.

WHETHER IT BE EXPEDIENT FOR A CLERGYMAN
TO RAISE HIS COMPOSITION.

TH E enquiry in this chapter supposes that the composition may be lawfully and justly raised: otherwise it certainly cannot be raised with expediency. And, indeed, to pursue this inquiry fairly, a full conviction that the tithes are the property of the clergy; as much their property as any thing can be, is necessary. That sort of acknowledgement, which proceeds rather from a desire of evading the question, than from a full conviction, is not sufficient: for the latent doubt will greatly bias the judgment.

The argument against the expediency of raising the composition is this. Every rise excites a clamour amongst the parishioners, and so prejudices their minds against their minister; as to dispose them not to attend to that instruction, which it is the intention of his officer to give them.

In general, where the experiment has been tried, the clamour has subsided in a short time;

provided the conduct of the incumbent be, as it ought always to be, equitable towards all men, and charitable to the poor. And indeed to suppose the clamour would not subside, is to suppose the people incapable of understanding the most obvious principles of justice. The question respecting tithes is not a difficult one. They either are, or are not, the property of the minister. If they are not, he can have no right to receive *any composition at all* for them : and if the people thought them not his property, they would consider his demanding any composition for them as unjust. Now, if they know that they are his property, there can be no difficulty in comprehending that it is not reasonable that he should receive only the half or the third part of their value. They well know that, were the tithes their's, they would not receive at that rate for them. And, indeed, whenever a farmer happens to get them into his hands, he receives them to the utmost. And, as far as I can learn, farmers dread the having to pay tithes to a farmer much more than to a clergyman. Surely then, they cannot think it wrong in a clergyman to do ; what they knew they would do, were they in his circumstances. While the matter is in agitation, indeed, they will talk as if they could not understand that it was right : but when the composition having been raised, they can no longer hope to profit by a feigned ignorance,
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it seems probable that they would form a more just view of their minister's conduct, and lay aside their resentment.

It is admitted, however, that we ought not to run the risk of exciting prejudices, which may prove injurious, unless the importance of the occasion justify it. Whether the present be of sufficient importance will appear from the following considerations.

Such are the expences attending the situation of life, in which a clergyman is placed by society, that the full value of his living will scarcely be sufficient to maintain his family. Hence if the composition be much under the value, and he have no private fortune, or but a small one, he must involve himself in debts, which he has but little prospect of paying : and consequently must injure his creditors. But will the bare prospect of doing good, by forbearing to demand that income, which the law has assigned him, justify this? Would it not be like being generous with other people's money : and contrary to that maxim that we ought to be just before we are generous?

Many clergymen have families, and are then bound by the same laws as are binding on other parents, and husbands. It is the duty of every man, who has it in his power, to provide a suitable maintenance for his widow and orphans. But, if he forbear to receive the value of his living,
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he must, in general, leave his widow destitute, and frequently burthened with a family, which she has nothing to maintain. This is not an imaginary thing. For it is notorious that the families of no class of men are so frequently left destitute, as those of clergymen. And not unfrequently, it is said, the daughters of deceased clergymen, being unable to procure a decent maintenance in a country where so few employments are allotted to women, are compelled to seek for subsistence in situations which expose them to seduction; and then end their days in vice and infamy. One reason for this is, that their fathers did not receive that income which was assigned to them by government, and which might have enabled them to make a small provision for their families.

An objection, which may perhaps be made to these arguments, must be anticipated. It is, that a good man ought to trust to providence to support both himself and family. But we should remember, that he who looks to providence for support, is bound to make the best use of all the means, which that providence has afforded him. A man, who has it not in his power to provide for the future maintenance of his family, may chearfully look for their subsistence to that God, who feedeth even the fowls of the air. But if he
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have the means of providing for them in his power, he is bound to use them.

If a clergyman actually received the value of his tithes, and instead of using it for his own support, and to make a provision for his family, should give away a great part of it, not to the poor, but to the farmers, or rather to their landlords, and in consequence of this, involve himself in debts, and leave his family destitute, he would certainly be doing wrong. Now, the only real difference between the two cases is the avoiding the evils of raising a clamour against himself: for, to forbear to receive a sum which is due, amounts to the same thing as giving away an equal sum. Here a man does what is wrong with a view to promote the interests of religion: which is offending against that rule, that we are never to do evil that good may come. The cause of religion does not need the assistance of any man's misconduct. We ought to do what is right, and to leave the consequence in the hand of God.

The two cases which have been mentioned comprehend the greatest part of the clergy. But we will state a third: and to place it in the strongest light, we will suppose a clergyman possessed of a large private fortune, and without wife or child. With respect to himself, then, there would be no need of his raising his composition:

position: and the desire of doing good, and of living amicably with his neighbours, might induce him to receive what had been received hitherto, however short it might be of the value of his living. But he is a member of a large profession, and his relation to his brethren makes it his duty to consider how their interests may be affected by his conduct. He cannot but know the difficulties, to which many of them are reduced to maintain their families: and that his forbearance will be pleaded against every attempt of theirs to raise their compositions: that it will affect his successor, and render it more difficult, than it would otherwise have been, for him to get the value of his tithes. Will he not then conceive himself bound to forego the advantages of his forbearance, and to meet the difficulties of raising his composition with a view to their benefit?

An action derives its moral character more from its general than its particular consequences. Now the particular * consequence of a minister's

* Even this particular consequence would probably not follow, if the clergy were universally to take the value of their tithes. For their indulgence alone seems to have occasioned the notion that they ought not to demand their value.

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forbearing to raise his composition is the avoiding of one impediment to his usefulness. But the general consequence is the contributing, as far as an individual can contribute, to defeat the provision made by government for the preaching of the gospel in every succeeding generation, by rendering the tithes inadequate to their purpose. Upon this principle it seems the duty of a minister to raise his composition, even though his circumstances may render that rise unnecessary for his own support.

These arguments apply with more force to clergymen of small private fortunes : because their example will be urged as a stronger reason why others should not encrease their compositions : and because the answer to it will not be equally obvious.

A clergyman is bound to maintain hospitality, and to be liberal to the poor. But this must be generally out of his power if he receive only a part of his living. Can it then be expedient that he should render himself incapable of giving to the poor, what he is bound to bestow on them ; by giving up to the farmers, or rather to the landlords, a great part of his tithes ?

Which of these characters seems now on the whole most likely to do good ? A clergyman, who, while he receives the value of his living,

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shews himself attentive to the obligations of every relation of life; fulfils the duties of a husband and a father; is a friend to the needy, and just in all his dealings: or one, who, by forbearing to raise his composition to its value, is obliged to neglect the duties of justice to his creditors, and charity to the poor, and to leave his family in all the miseries of poverty?

C H A P. VI.

ON A COMMUTATION FOR TITHES.

THE differences which arise between a minister and his parishioners, where the composition is raised; and the distrust which subsists between them where it is not, make a commutation for tithes by the authority of parliament very desirable. Added to this, the obstacle, which, it is said, the tithe forms to improvements in agriculture, make it the interest of landholders and of the community at large that a commutation should take place. And were it made on equitable principles, it would be advantageous to the clergy.

One mode at present talked of for fixing the sum to be raised, is, the taking the average of the compositions for several years past. Another is to fix it at what is at present received as a composition for them. Neither of these modes is fair: because the composition in general is, and long has been considerably under the value of the tithes: and, consequently, it would be taking an advantage of the lenity, or other peculiar circumstances of the clergy to diminish the value of

their property. Would landholders think it right that their rents should be fixed in future according to the average of the sum which they have received for several years past, or which they now receive: especially if they or their ancestors have been remarkably lenient in their rents? Would they like that their favours should be turned into a reason for diminishing the value of their estates? If not, why do they apply to others a rule, which they are unwilling should be applied to themselves?

The reason why the compositions are so low, is because the clergy have forbore to raise them to their value, that they might not excite that opposition, and ill will, with which a demand of their just rights always meets. Now on the part of the clergy there is a forbearance which is laudable as to its motive: but on the part of the farmers there is an opposition not easy to be defended on principles of equity. To fix the commutation then on such terms, would be to punish the one party for their kindness, and to reward the other for their injustice.

And what advantage would the public derive from this departure from the rules of equity? What would be taken from the clergy would soon fall into the hands of the landholders: for in consequence of it, they would let their farms at
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the larger rents. That this would benefit the public is not evident.

If the clergy have a right to the tithes (which I imagine has been proved above) a commutation ought to be so fixed, as that they should receive their value. This, and this only, would be equitable.

To ascertain their value, commissioners might be appointed; furnished with full powers to examine witnesses, and to take all other fair methods of knowing the usual produce of each farm, and of the whole parish. To secure the integrity of these commissioners, and to make them discharge their duty fairly, they might be obliged to certify upon oath what is the usual quantity of the produce of each farm, and to make the tenth part of that quantity the ground of all their operations respecting the tithes.

When the quantity of produce was ascertained, a method might be taken similar to that which was adopted in the case of the Langtons in Leicestershire. The tithe of these parishes (after deducting, I suppose, for poors rate, and the other taxes to which the clergy are liable) was estimated at £ 600 a year. Commissioners were appointed by act of Parliament, to ascertain from the London Gazette what had been the average price of wheat for the last 14 years in the county of Leicester: and from that average to find out how
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many bushels were equal to in value £ 600. This number of bushels was to be a rule for fixing the sum to be received by the incumbents of those livings in future. For, every seventh year new commissioners were to ascertain, as before, the average price of wheat in Leicestershire, in the seven years immediately preceding: and according to that price, to allot for the ensuing seven years to the incumbent a sum equivalent to the number of bushels which had been fixed by the first commissioners. This sum was to be paid by the parish officers, and to be levied upon the inhabitants by a rate. Thus the income of the clergyman would rise and fall according to the price of wheat.

If it be said that in some parts of the kingdom, articles more valuable, or in a greater quantity may be cultivated at present, than will be in future; (as for instance in the hop countries) and therefore that it would be unfair to estimate the real value of the tithe in future by what it is at present; a method somewhat different from what has been mentioned, which would obviate this objection, might be adopted. Let commissioners ascertain what quantities of each article are usually produced per acre on each particular farm. Let the value of the tenth part of that quantity according to an average, taken as above, be paid yearly to the incumbent for each acre of that article

article cultivated that year. According to this method, the farmer would pay for those articles only, which he grew : and in proportion to the quantity of land on which he grew them.

Compositions are frequently made on a plan similar to this : only instead of paying the average price of a certain quantity of grain, or other produce per acre, they pay a fixt sum per acre. And as the price of corn is continually increasing, nearly as the value of money is decreasing, the composition is continually diminishing in value. Hence, the necessity of frequent changes ; and all the consequent disputes between the clergy and their parishioners. But all these might be avoided, if some such method as those mentioned above, was adopted.

If it were thought a matter of too much importance to make at once so great a change in the property of the kingdom, an experiment might be made on a smaller scale. An act might be passed empowering those clergymen, who might wish to advance their compositions, but not to take their tithes in kind, to apply to the bishop of the diocese and to the justices of the quarter sessions, by whose joint authority commissioners might be appointed to settle a commutation or composition upon a plan similar to one of those mentioned above : and that composition should
continue

continue in force only during the life of the present incumbent. Thus, in the course of a few years, the inconveniences attending the plan would be known, and, by a future act, might be prevented.

Compositions are frequently made similar to this: only instead of paying the average price of a certain quantity of grain, or other produce per acre, they pay a fixed sum per acre. And as the price of corn is continually increasing, nearly as the value of money is decreasing, the composition is continually decreasing in value. Hence, the necessity of frequent changes; and all the consequent disputes between the clergy and their parishioners. But all these might be avoided, if some such method as those mentioned above, was adopted.

F I N I S.

If it were a matter of too much importance to make at once so great a change in the property of the kingdom, an experiment might be made on a smaller scale. An act might be passed empowering those clergymen who might wish to advance their compositions, but not to take their titles, to apply to the bishop of the diocese, by the justices of the quarter sessions, by the authority of the commissioners might be appointed to make a composition or composition upon a plan similar to one of those mentioned above: and that composition should



continue

